

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ALNYLAM PHARMACEUTICALS,)
INC.,)

Plaintiff,)

v.)

MODERNA, INC., MODERNATX,)
INC., and MODERNA US, INC.,)

Defendants.)

C.A. No. 22-cv-335-CFC
(CONSOLIDATED)

[PROPOSED] CLAIM CONSTRUCTION ORDER

The Court, having considered the parties' briefing on claim construction (D.I. 95), and in accordance with the reasoning set forth during the claim construction hearing on August 9, 2023 (D.I. 115), and the Court's subsequent August 9, 2023 Order (D.I. 114), IT IS HEREBY ORDERED that the terms of U.S. Patent Nos. 11,246,933 (the "'933 Patent") and 11,382,979 (the "'979 Patent") set forth below are construed as follows:

Claim Term	Claim Number(s)	Construction
"cationic lipid"	All asserted claims of the '933 Patent All asserted claims of the '979 Patent	Plain and ordinary meaning, which is "a lipid that is positively charged or that may be protonated at physiological pH"
"branched alkyl"	All asserted claims of the '933 Patent	"A saturated hydrocarbon moiety group in which one carbon atom

Claim Term	Claim Number(s)	Construction
	All asserted claims of the '979 Patent	in the group (1) is bound to at least three other carbon atoms, and (2) is not a ring atom of a cyclic group."
"branched C ₁₀ -C ₂₀ alkyl"	All asserted claims of the '933 Patent All asserted claims of the '979 Patent	"A saturated hydrocarbon moiety group with 10 to 20 carbon atoms and in which one carbon atom in the group (1) is bound to at least three other carbon atoms, and (2) is not a ring atom of a cyclic group"
"R ¹³ is a branched C ₁₀ -C ₂₀ alkyl"		"R ¹³ is a saturated hydrocarbon moiety group with 10 to 20 carbon atoms and in which one carbon atom in the group (1) is bound to at least three other carbon atoms and (2) is not a ring atom of a cyclic group."

Further, the parties have agreed to the following constructions, as set forth in the Joint Claim Construction Brief (D.I. 95):

Term	Agreed Construction
"directly bonded"	"Covalently bonded without any intervening atoms"
"primary group"	"the head group and central moiety"
"optionally comprises a primary, secondary, or tertiary amine"	"may or may not contain an amine, where the amine may be primary, secondary, or tertiary"
"where the branching occurs at the α -position relative to the [biodegradable/ester] group"	"where the branching occurs at a carbon atom next to the [biodegradable/ester] group"
"nucleic acid"	"a molecule composed of nucleotides, including modified nucleotides"
"an RNA"	"comprising ribonucleic acid"

The construction of the term “head group” is held in abeyance until such time as this Court conducts an additional hearing as discussed during the August 9, 2023 hearing, if necessary.

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Dated: August 16, 2023

IT IS SO ORDERED this 21st day of August, 2023.



Chief Judge Colm F. Connolly